

**DISTRICT OF COLUMBIA  
DOH OFFICE OF ADJUDICATION AND HEARINGS**

DISTRICT OF COLUMBIA  
DEPARTMENT OF HEALTH  
Petitioner,

v.

LILLIAN A. YOUNG  
Respondent

Case No.: I-00-20332

**ORDER DENYING MOTION FOR STAY**

On April 5, 2002, Respondent filed a Motion for Stay of the Final Order in this matter, which requires her to pay a fine of \$1,000. As set forth in *DOH v. Kennedy Center*, OAH No. I-00-11212 at 2 (Order Denying Stay, August 8, 2001), the following standard is applicable to her motion:

The Court of Appeals has held that an administrative judge considering a stay application must apply the same standard applied by the courts. That standard requires a balancing of four factors: “whether the movant [is] likely to succeed on the merits, whether denial of the stay [will] cause irreparable injury, whether granting the stay [will] harm other parties, and whether the public interest favors granting a stay.” *Kuflom v. District of Columbia Bureau of Motor Vehicle Services*, 543 A. 2d 340, 344 (D.C. 1988).

Respondent argues that she is likely to succeed on the merits because she fulfilled her responsibility under 21 DCMR 700.3 by providing a covered container for the trash at her property and paying for twice-a-week trash pickup services. She does not explain, however, why she failed to call her trash collection company after it missed a scheduled pickup. In any event, § 700.3 imposes strict liability, without regard to fault, upon the owner of property where

trash is stored improperly. *Bruno v. District of Columbia Board of Appeals and Review*, 665 A.2d 202 (D. C. 1995). Respondent does not dispute that the trash at her property violated § 700.3. Thus, she is not likely to succeed on the merits of her appeal.<sup>1</sup>

As to irreparable harm, Respondent argues that she “is in the final stages” of a bankruptcy case and that “payment of this fine prematurely would cause undue hardship.” Respondent has not applied for a payment plan pursuant to D.C. Official Code § 2-1801.03(b)(5), nor has she submitted any documentation supporting her claim of undue hardship. Due to the lack of any such evidence, I can give her claim of irreparable injury no weight. Of course, if Respondent submits proper proof of any order of the Bankruptcy Court affecting the enforceability of the \$1,000 fine, such order will be given the full effect that the law requires.<sup>2</sup>

Respondent does not address the other two factors governing her motion for stay – harm to the Government and the public interest. Neither factor favors the grant of a stay. Delaying Respondent’s compliance with the fine order will have a detrimental effect upon the Government’s enforcement of § 700.3, by lessening the deterrent effect of the sanction imposed. *Kennedy Center, supra* at 3. Nor is there any evidence that the public interest will be served by that delay.

Because none of the governing legal factors favors the grant of a stay, I will exercise the discretion granted by D.C. Official Code § 2-1802.03(g) to deny Respondent’s motion.

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<sup>1</sup> Respondent’s argument that the persons who left the trash outside the dumpster also are liable misses the point. As the owner of the property, she is strictly liable for violations of § 700.3, regardless of whether others *also* may be liable for the conditions observed by the inspector.

<sup>2</sup> Respondent did not mention her bankruptcy case until she filed her motion for stay.

Accordingly, it is, this \_\_\_\_\_ day of \_\_\_\_\_, 2002:

**ORDERED**, that Respondent's motion for stay is **DENIED**.

**FILED            06/19/02**

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John P. Dean  
Administrative Judge